

REMARKS

No new matter has been added. Accordingly, claims 1-4, 6-9, 11-14, 16 and 17 are under consideration or reconsideration.

Claims 1-4, 6-9, 11-14, 16 and 17 are rejected under 35 U.S.C. § 103(a) as allegedly being anticipated by U.S. Patent 5,939,483 (hereinafter, "Kueppers") in view of U.S. Patent 5,292,819 (hereinafter "Diehl"). The Examiner maintains that the adhesive described in Kueppers may well be "suitable for use as an elastic attachment adhesive" (Office Action dated March 15, 2010, page 2, paragraph 4).

The Examiner acknowledges that Kuepper's adhesive is intended for use in packaging applications (*Id.*). Kueppers fails to teach or suggest an adhesive directed to an elastic attachment adhesive. To cure this defect, the Examiner applies Diehl. Diehl is cited as teaching adhesive compositions, made of block polymers, tackifiers and plasticizers, for use in diaper applications, packaging and carton sealing. The Examiner urges that adhesives useful in packaging applications can be used in diaper and elastic attachments, given the art recognizes properties that make these adhesives suitable for both packaging and elastic attachment as evidenced by the disclosure in Diehl (*Id.* page 3, paragraph 5).

Applicants disagree.

To establish a *prima facie* case of obviousness, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007). Moreover, the cited reference must teach or suggest all the claim limitations, and a reasonable expectation of success, must be found elsewhere than in Applicants' disclosure. That is, the claim recitations must be found in the cited reference, the nature of the problem to be solved, or in the knowledge/understanding of

the person of ordinary skill in the art. MPEP § 2143; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Here, Kueppers in view of Diehl does not support a *prima facie* case of obviousness.

Applicants' invention is directed to hot melt adhesives that are suitable for use as an elastic attachment adhesive. The adhesives comprise specific amounts of a (PS-PI)_nX radial block copolymer component, a linear triblock copolymer component, a tackifying resin component, and a liquid plasticizer component. The above particular combination is suitable as elastic attachment adhesives due to its viscosity and creep performance. Exemplary viscosity of an elastic attachment adhesive, as set forth in Table 1 (page 13 of applicants' specification), is about 6000cP at 300°F (150°C). Also, exemplary average creep percent of an elastic attachment adhesive, as set forth in Table 1 (page 13 of applicants' specification), is calculated as 4.8%.

Unlike the instant invention, Kueppers describes an adhesive used in packaging applications. Keuppers is directed to hot melt adhesives that can maintain heat resistance while applied at low application temperatures. Kueppers teaches that low temperature application hot melt adhesive requires lower melting raw materials, and the resultant adhesive typically have low heat resistance (Kueppers, col. 1, line 61 to col. 2, line 2). As such, Kueppers teaches low application temperature hot melt adhesives that exhibit excellent heat and cold resistance (*Id.*, col. 1, lines 11-14). Kueppers further teaches that its resultant adhesives have viscosity less than about 5000cP, preferably less than 3000cP, more preferably less than 1500cP, and even more preferably less than 1000cP at 155°C (*Id.*, col. 8, lines 14-20). Therefore, at 150°C, Kueppers teaches that the viscosity should be less than about 1500cP, more preferably less than about 1000cP (*Id.*, lines 26-31). Kueppers teaches that the use of high molecular weights of block copolymers makes it difficult to obtain viscosities low

enough for application on packaging equipment, but decreasing the amount of block copolymer used in the adhesive decreases flexibility at low temperature (*Id.*, lines 47-52). Even with this challenge, Kueppers have discovered, surprisingly, the ability to achieve low viscosity at low temperature while maintaining acceptable heat resistance (*Id.* lines 52-55). Nothing in Kueppers teaches or suggest the use of the low temperature hot melt adhesive with good heat resistance adhesive directed to packaging application can also be used as elastic attachment adhesive, let alone be suitable for use as an elastic attachment adhesive. .

In response, the Examiner maintains that the composition ingredients and relative amounts are shown in Kueppers, and that it is well within the art to manipulate viscosity and to formulate within the scope of the claims. The Examiner also notes that there is no viscosity limitation claimed. While applicants acknowledge there is no viscosity limitation recited in the claims, the claims do recite that the adhesive be formulated so as to be suitable for use as an elastic attachment adhesive. The packaging adhesive of Kueppers would not be suitable for use as an elastic attachment adhesive. Kueppers fails to disclose or suggest an adhesive suitable for elastic attachment that comprises a (PS-PI)_nX radial block copolymer having a styrene content of 25-50 wt % in amounts of less than 15 wt % in combination with up to 20 wt % of a linear triblock, and a plasticizer in amounts of at least 10 wt % or more.

Diehl fails to remedy the defects of Kueppers to obviate the claimed invention.

A skilled artisan understands that there are various adhesives in disposable articles, and that the different adhesives have different functions and performances. For instance, construction adhesives are used to form layers and elastic attachment adhesives are used for areas where elasticity and bond strength have different requirements than construction (layer portion) of the disposable article, and that one is not interchangeable with the other adhesive.

Diehl teaches a radial block copolymer based hot melt adhesive for use as

construction adhesives for disposable articles (Diehl, col. 5, lines 66-69). Diehl specifically teaches that its hot melt adhesive compositions are useful as construction function, in binding together an outersheet, or wrapper overlapped with an absorbent pad as required in the construction of sanitary napkins, and that the adhesives are applied as a fluid permeates the overlapped area to bind and seal the absorbent pad inside the outer sheet which serves as a wrapper (col. 6, lines 23-30). As such, while Diehl's adhesive may be useful as construction adhesive, it fails to teach or suggest the use as an elastic attachment adhesive.

The claimed subject matter would not have been obvious to one of ordinary skill in the art from the combined disclosures of Kueppers in view of Diehl. Reconsideration and withdrawal of the Section 103 rejections of claims 1-4, 6-9, 11-14, 16 and 17 are therefore respectfully requested.

Applicants believe that the foregoing constitutes a complete and full response to the Office Action. Accordingly, an early and favorable reconsideration of the rejections and an allowance of all of pending claims are earnestly solicited.

Respectfully submitted,

/Sun Hee Lehmann/

Sun Hee Lehmann
Reg. No. 58,338

Henkel Corporation
10 FINDERNE AVENUE
BRIDGEWATER, NEW JERSEY 08807
Telephone No.: 908-575-6869

June 15, 2010